IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 1348 OF 2003

Ravindra Kumar Mishra ……..Petitioner.

Versus

State of Uttaranchal and Others. ……Respondents.

HON'BLE RAJESH TANDON J.

Heard Sri B.P. Nautiyal, counsel for the petitioner and Sri Nand Prasad, counsel for the respondent.

By the present Writ Petition, the petitioner has prayed for a writ of certiorari quashing the order dated 29th January, 2003, by which appeal was dismissed in default by the respondent no. 3.

Briefly stated, licence of the petitioner was cancelled on 25th of February, 2000 by the respondent no. 2.

Aggrieved by the said order, the petitioner has preferred an appeal being Appeal No. 6 of 2000.The said appeal was pending. The Appeal was fixed before the Appellate Court on 29th of January, 2003.

Petitioner has submitted that since he was busy in the election duty, he could not appear on that date. Appeal has been rejected only on the ground that earlier the application has already been rejected and therefore, the present Application is not maintainable.

The Justice oriented approach requires that the matter should be decided on merits instead of deciding the matter ex parte.

The need of society is that there should be justice oriented approach and the appeal should not be rejected only on the ground of technicalities. The Apex Court has held in (2001) 8 SCC 151, M.S. Grewal vs. Deep Chand Sood as under:

"Law Courts will lose their efficicacy if they cannot possibly respond to the need of the society- technicalities there might be many but the justice-oriented approach ought not to be thwarted on the basis of such technicality since technicality cannot and ought not to outweigh the course of justice."

In view of the aforesaid fact, the Appellate Authority is directed to decide the appeal on merits within a period of six weeks from the filing of the certified copy of the order.

Writ Petition is allowed. No order as to costs.

(RAJESH TANDON J.)

12.10.2004
P.S. Rathour